

**Minutes of the Forty-Fifth Meeting
Office for Legal Complaints (OLC)
Remuneration and Nomination Committee**

**Wednesday 27 February 2019
13:30 – 16:00**

Present:

Dr Bernard Herdan, Chair
Elisabeth Bellamy
Dr Jane Martin

In attendance:

Rob Powell, Chief Executive
Rebecca Marsh, Chief Ombudsman
Marcus Passant, Head of Human Resources

Board Secretary:

Kay Kershaw

Item 1 – Welcome, apologies and conflict of interest

1. The Chair welcomed those in attendance.
2. There were no apologies.
3. Members of staff present declared a conflict of interest in agenda item 8 and agreed to leave the meeting when Members considered their decision on this matter.
4. No other conflicts of interest were declared.

Item 2 – HR Update

5. Balanced scorecard update: The Head of HR presented the Balanced Scorecard reporting on statistics for quarter 3 of 2018/19. Where possible more up to date data was reported up to the end of January 2019.
6. Quarterly voluntary turnover had increased from 2.8% to 6.1% but rolling annual turnover had reduced from 18.5% to 15.4%.
7. Staff leaving with less than a year's service had increased slightly from 21.3% to 22.9%. This increase was likely to reflect staff responses to changes in operational roles and ways of working and performance management.
8. Staff leaving within their first year of employment continued to be a challenge for the organisation and also reflected the organisation's more proactive approach to managing probation periods. To address this, improvements had been made to the recruitment process and induction process. HR would be track new starters in order to correlate the results of their initial assessment tests against their actual performance. The results of assessment tests would form part of individual development plans and induction would be tailored to meet the learning needs of the individual.
9. Sickness absence remained broadly in line with the previous quarter.

10. The Head of HR reported on the need to improve the way return to work interviews were conducted and advised that further training for Line Managers, many of whom were new in post, was required.
11. Members acknowledged the pressures faced by Line Managers in light of the volume of HR matters they were currently dealing with.
12. Members discussed the benefits to the organisation of LeO's membership of the Institute of Customer Service. The benchmark survey would be considered alongside the LeO Pulse survey to minimise the burden on staff.
13. A discussion took place about the volume of HR matters being dealt with across the organisation, the capacity and capability of staff to deal with this work and the impact and risks to the organisation associated with the challenges faced.
14. Members suggested that the Executive should consider seeking additional support from outside the organisation (eg coaching and role play) to assist with some of the HR challenges faced in order to relieve the burden on staff.
15. The Head of HR reported on changes being made to the minimum contribution made by employees to LeO's pension scheme in order to comply with legislative changes. The minimum employee contribution into LeO's pension scheme is to increase from 2% to 3% with effect from 6 April 2019. LeO will contribute 6%, making a total of 9% paid into the retirement savings of 121 employees affected by the changes. All employees affected by these changes have been informed of the increase to their pension contributions. Employees continue to have the option to opt out of the scheme should they so wish. Staff Council have been informed of the changes.
16. The Committee **noted** the HR update.

Item 3 – Update on actions arising from the staff survey

17. Further to discussions held with Staff Council at an earlier meeting, and a report tabled at that meeting, the CEO provided the Committee with a verbal update on the actions arising from the staff survey.
18. He advised that staff turnover was expected to remain high in light of ongoing performance management and the buoyant local job market.
19. A discussion took place about the challenges identified in the survey around leadership and management and the need for the Management Team to make their visibility around the office a priority going forward.
20. The CEO highlighted the challenges faced by the Management Team around managing their high workloads, which require them to be working at their desks for long hours, against the need for them to be visible around the office and more available to staff.
21. The Committee **noted** the update on actions arising from the staff survey.

Item 4 – Annual exit report

22. The Head of HR presented a paper setting out the findings of exit forms completed by staff leaving the organisation over the last 12 months.

- 23.** Between 1 January and 31 December 2018, 50 employees left the organisation. Of these, 41 were permanent employees, 35 of whom resigned voluntarily, 5 left at the end of a formal process and one died. Nine were on fixed term contracts.
- 24.** Of the 50 employees, 17 completed exit interview forms.
- 25.** The rate of voluntary turnover (excluding redundancies, dismissal, deaths and end of fixed term contracts) decreased to 16.5% during 2018, compared with 17.5% at 31 December 2017.
- 26.** The number of corporate staff leaving the organisation decreased from 9 in 2017 to 4 in 2018, confirming the organisation's view that the 2017 figure was anomalous.
- 27.** The main reasons given for leaving the organisation was personal betterment (43%) and dissatisfaction with job content (14.3%).
- 28.** 23% of new starters left within 1 year of joining the organisation; this was a decrease on the 2017 figure of 26%.
- 29.** A higher percentage of men than the organisation percentage left the organisation. The people survey indicated that men have an overall lower engagement index, which may be the reason for this difference.
- 30.** There has been a small increase in the percentage of BAME leavers; this had not had a negative impact on the overall employee makeup.
- 31.** There was no significant change in the level of positive feedback provided by leavers when compared to 2017. Continued negative feedback around workload and morale was reported, particularly in the Resolution Centre.
- 32.** Overall, employees' relationships with line managers continued to be positive.
- 33.** Respondents felt they had received adequate training for their role, but the workload after training caused them problems.
- 34.** Whilst there was mixed feedback in relation to development opportunities, there was a general appreciation that support and encouragement was available.
- 35.** In discussion, Members expressed surprise that exit interviews were not conducted face to face. In response, the Head of HR explained that, due to the current high workload in the HR team, the default method was to ask leavers to complete an exit form, but staff were always offered the option to speak to a member of the HR team if required. He hoped that, once workloads settled down, the HR team would be able to offer face to face interviews as a matter of course.
- 36.** The CEO reported that since taking up his post he had read every exit form completed and met with all leavers in the roles of Team Leader and above to thank them for their service and discuss their feedback on the organisation.

37. It was suggested that the executive might want to consider categorising leavers as red, amber green and then focus on face to face meetings with leavers in the red category in the first instance.
38. A discussion took place around the challenges faced by LeO in in light of the improved pay and benefits offered by its competitor organisations, some of whom offer the benefits of a Civil Service pension. It was noted that LeO could primarily compete on the intangible benefit of its flexible working offer.
39. Members felt that a fundamental review of LeO's pay scales was required and discussed the feasibility of putting forward a case to the MoJ for improved pay and benefits once the organisational structure had been finalised.
40. The Committee **noted** the annual exit report and advised that it wanted to follow up the discussion about reviewing pay and benefits in the new financial year.

ACTION: Head of HR to follow up the discussion about reviewing pay and benefits in the new financial year.

Item 5 – Annual review of the gender pay gap

41. The Head of HR presented a paper setting out the gender pay gap as at 1 April 2018 which had been prepared in line with the statutory instrument, The Equality Action 2010 (Gender Pay Gap Information) Regulations 2017.
42. LeO intends to publish its gender pay gap data in the interests of transparency even though the organisation employed fewer than 250 staff on the reporting date, 5 April 2018.
43. The mean gender pay gap as at 5 April 2018 was 16%, compared with 10% on the same date in 2017. The reason for this increase is that on the legally specified point of data capture we had made a payment to more male ombudsman than women and this has had a disproportionate effect on the gender pay gap and average hourly pay reported. The actual number of male and female pool ombudsman at that time was completely equal and we are confident that there are no equal pay issues.
44. It was suggested that the number of decisions made by female Pool Ombudsmen relevant to their male counterparts could be published with the gender pay gap data.
45. Following discussion, Members approved that the gender pay gap report as the basis for the publication of LeO's gender pay gap report on the Government and LeO website.

Item 6 – Annual review of flexible working

46. The Head of HR presented a paper setting out a review of the flexible working policy, in line with RemCo's request for a review 12 months after its launch.
47. Members were advised that the flexible working policy remained popular with employees and was a key retention driver. However there were concerns around behaviours amongst a minority of staff, about the understanding of the

earned autonomy element of the policy and the organisation's capability to manage teams virtually.

48. The Executive reported that more is to be done to equip Line Managers to manage remote workers and ensure a more structured and disciplined approach towards the application of the flexible working policy. They needed to empower line managers to use the policy to address issues around staff behaviours and ensure the needs of the business were met. Members commented on the additional pressures put on Line Managers to deliver this policy in light of the range of issues they are already dealing with.
49. Members **noted** the findings of the review of the flexible working policy and agreed with the recommendation for the Management Team to continue to monitor the policy with a further RemCo update in 12 months' time.

ACTION: Board Secretary to add the update on the flexible working policy to the forward plan for quarter 4 2019/20.

Item 7 – Update on new appraisal process

50. Further to discussions at the earlier Staff Council meeting, the Head of HR presented a paper setting out proposals to change the annual appraisal process.
51. The process has been reviewed in line with wider changes in the management of staff and after previous end of year appraisal processes produced insufficient information to fully assist with learning and development planning. Additionally, there had been a significant decrease in positive responses to the theme of learning and development in the 2018 Civil Service People Survey, and feedback from staff at LeO Live in October 2018 had also been taken into account.
52. Following engagement and discussion with Staff Council, it was decided to replace the Performance Impact Framework with a more dynamic system where continuous conversations would take place between managers and employees throughout the year. This would ensure that employees received regular feedback, in real time, from their managers and discuss key points such as performance, behaviour, development and wellbeing.
53. Continuous conversations would link into the improvements being made with the induction process and would ensure a more proactive approach towards developing staff and addressing their individual training needs.
54. Due to the time required to properly develop and implement the proposed new appraisal process, it has been decided that the existing Performance Impact Framework would be rolled out one final time in April 2019.
55. Following discussion, Members **noted** the paper setting out the new approach towards staff appraisals. Members **confirmed** that overall they were happy with the proposed changes, but felt that it was important to ensure that the process was sufficiently robust and well documented in order to mitigate any risk of it becoming too informal.
56. Members requested sight of the final draft of the new appraisal process at the next RemCo meeting in May.

ACTION: Head of HR to table the final draft of the new appraisal process at the RemCo meeting in May 2019.

ACTION: Board Secretary to add new appraisal process to the RemCo forward plan for May 2019.

Item 8 – Celebrating Success: approval of 2018/19 bonus

57. The CEO presented a paper setting out recommendations, supported by the Management Team, for the payment of 2018/19 annual bonuses paid from the non-consolidated pot available to reward and recognise exceptional performance.
58. The CEO discussed the considerations around the payment of bonuses, including risks of another year without an end of year bonus in an increasingly competitive market.
59. However, when making their decision whether to authorise the payment of any, or all, bonus payments from the non-consolidated pot, the CEO advised that RemCo should consider the reputational risks of making the payments and the need to maintain trust and confidence in the Legal Ombudsman.
60. The Management Team recommended the payment of:
 - The payment of annual awards to the team of the year and three individuals who have best demonstrated delivery, values and quality.
 - The payment of year-end bonuses of £800 to the top 10% of performers and £400 to the next 10% of performers.
61. The Management Team did not recommend the payment of the annual KPI bonus (flat rate payment to all staff) because of the low level of output against the delivery plan and the build-up of assessment work.
62. Members were advised that the payment of any proposed awards would be subject to moderation across the corporate and operational areas of the organisation.
63. The executive left the meeting to allow Members to discuss the recommendations in private and to ensure that there was no conflict of interest.
64. Following private discussion, Members **approved** the proposed approach to the payment of two of the three annual elements of the Celebrating Success reward and recognition scheme for 2018/19, as recommended by the Management Team. The Chair undertook to brief the OLC Chair on this decision.
65. No staff announcement would be made about bonus payments until the end of March. Line Managers would then be asked to put forward names for individual and team awards.
66. Members sought clarification on the process if it was found that the number of top performers exceeded 10% and asked whether there would be sufficient budget to reward a higher number of staff. In response the Executive confirmed that they would be willing to reward a higher percentage of staff and

confirmed that there was sufficient budget to do this if the situation were to arise.

- 67. A discussion took place about whether the bar was too low at 10% for the payment of bonuses to top performers and it was suggested that consideration should be given to increasing the percentage. In response the Head of HR advised that it was unlikely that increasing the percentage range would make much difference, but this was uncertain until the actual data had been received. The Chief Ombudsman suggested that a further discussion with RemCo might be helpful, if this situation were to arise.
- 68. Members sought clarification on whether team members on probation would be eligible to receive the bonus payment team award. The Head of HR reported that, whilst there was currently no specific rule about this, it was unlikely that staff on probation would be eligible for the award. Further work will be undertaken to clarify this before any announcements were made to staff.

Item 9 – Policy updates

- 69. The Head of HR presented a paper summarising proposed changes to the grievance, disciplinary and investigations policies.
- 70. The grievance and disciplinary policies were reviewed in full and the proposed changes reflected feedback, best practice and process changes.
- 71. Further consultation with the Management Team and Staff Council is required in respect of these policies. RemCo will be advised of any substantive changes by correspondence.
- 72. Jane Martin requested a copy of the revised grievance policy.
ACTION: Head of HR to forward a copy of the revised grievance policy to Jane Martin.

- 73. It was proposed that investigations policy was removed and the investigation processes integrated within the grievance and disciplinary policies.
- 74. Following review, Members **approved** the proposed changes including the removal of the investigations policy.

Item 10 –Previous Minutes

- 75. Having reviewed the minutes of the previous meeting held on 28 November 2018, Members **approved** the minutes as an accurate record of the meeting.

Item 11 – Outstanding actions from previous meetings

- 76. The Committee **noted** the update on the actions arising from previous meetings.

Item 12 – AoB

- 77. The CEO was invited by Lis Bellamy to comment on personnel matters that he recommended RemCo should monitor over the next 12 months.
- 78. Having met with Staff Council, Members commented on how important it would be for the Management Team to engage with staff effectively and for

the Head of IT to own the issues reported by staff around IT and the new CMS.

- 79.** The CEO expressed thanks on behalf of the Management Team and staff to Bernard Herdan, who would be leaving the OLC at the end of March. He commended his support, constructive challenge and immense contribution to the organisation both generally and in his capacity as Chair of RemCo.